IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION.

CIVIL APPLICATION NO.3652 OF 2004.

IN

FIRST APPEAL NO.1195 OF 2003

Mrs.Vimala Anand Shetty : Applicant.

versus

Mohammed Taufique (Since deceased)
by his heirs & legal representative
(a) Banu Mohammed Taufique
& ors. : Respondents.

Ms.Rekha Tawade i/by M/s.M.V.Kini & Co. for the applicant.
Mr.G.V.Nagarshetty for the respondents.

CORAM : D.G.DESHPANDE,J.

DATED : 21st March 2005.

ORAL ORDER

1. This application is filed by the original plaintiff with different prayers viz. that the respondents should pay electricity charges and,

Court Receiver should be appointed etc.

2. So far as prayer for appointment of Court Receiver is concerned, that prayer was rejected by the Court earlier. Therefore that cannot be considered.

3. So far as amended prayer (a-1), i.e. to restrain the respondents from parting with possession, is concerned, the counsel for the respondents makes a statement that the respondents will not part with possession of the suit premises or create third party rights.

4. The third prayer that remains in this application is that the respondents who are using the premises in whatever capacity should pay the electricity charges.

. The case of the plaintiff originally was that the respondens were conducting business. As against this, the case of the respondents was that they were the tenant. In any case, the respondents are not asserting the right over the property. They are running a business in whatever capacity and using the electricity.

Therefore, they have to bear the charges. Counsel for the respondents states that there are three shops and one meter. Therefore, liability of the respondents to pay the electricity charges will be 1/3rd of the bill that is received by the appellant regarding the said meter. According to the appellant, the respondents have not paid electricity charges from 7.4.2003. Hence the following order :-

:ORDER:

The Respondents to pay 1/3rd of the electricity charges from 7.4.2003 till this date. All the arrears in this regard at 1/3rd rate will be clear within eight weeks from today. In addition the respondents will go on paying 1/3rd of the electricity charges every month with respect of every bill that is issued to the appellant by the Reliance Energy.

Upon receipt of the bill, the copy of the same bill will be given to the respondents by the appellant. He will obtain acknowledgement and, within one

week thereof the respondents will pay 1/3rd of the electricity charges to the appellant and obtain receipt.

This state of affairs to continue till the appeal is disposed of.

Civil application is disposed of.

[D.G.DESHPANDE]

21/03/2005 JUDGE.